

Tax Insight

Practical advice for
businesses, their owners
and professional advisers

No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, including photocopying and recording, without the prior written permission of the copyright owner. Applications for such permission should be addressed to the publisher.

Published monthly by:
BDO Stoy Hayward LLP
55 Baker Street
London
W1U 7EU
All rights reserved.

The greatest care is taken to ensure the accuracy of this publication but no responsibility for loss occasioned to any person acting or refraining from action as a result of any statement in it can be accepted by the authors, the managing editor or the publishers.

In this issue

| | |
|---|----|
| Budget 2009 (I) | 02 |
| The new top tax rates - individuals | |
| Budget 2009 (II) | 09 |
| The new top tax rates - trusts | |
| Budget 2009 (III) | 11 |
| Extended loss carry-back | |
| Budget 2009 (IV) | 15 |
| Furnished holiday lettings: an opportunity – but beware of pitfalls! | |
| Budget 2009 (V) | 19 |
| Compliance – the burdens mount | |
| VAT partial exemption | 26 |
| Some helpful changes | |
| Tailpiece | 29 |
| Telephone advice from HMRC is not binding | |
| Supplementary technical notes | 31 |

About Tax Support for Professionals

As well as publishing Tax Insight, BDO Stoy Hayward offers a range of tax support services designed to give professional firms the benefit of another tax partner without the cost. Find out more by visiting our website, www.taxline3d.com. Here you can read the latest tax news and what it means, book places on our tax seminars and even submit tax queries online. There are two ways of accessing our services:

Taxline3D - our subscription service.

Why pay per call? Make unlimited calls to our tax advisers, for one annual fee. Don't worry about bills mounting up every time you call. To subscribe or find out more just ring **0845 356 0006** or visit www.taxline3d.com

Taxline/VATline - our pay-as-you-go service.

If you are not a Taxline3D subscriber you can still call any of our advisers. If it is possible to provide you with an immediate answer to your query over the telephone we would charge at a special discounted rate of £60 (plus VAT) per 12 minute unit or part thereof. You can use our dedicated advice lines to obtain fast telephone advice: **Taxline 0845 356 0006 VATline 0845 356 0007.**

Short queries relating directly to an article may be answered with our compliments. For administrative queries, please call **020 7893 3266.**

Budget 2009 (I)

The new top tax rates - individuals

In November 2008 the Chancellor announced the introduction of a new top tax rate of 45 per cent in April 2011. However, the worsening effect of the recession on the government's finances led him to increase the proposed top rate to 50 per cent, and to introduce it a year earlier, in April 2010. This, together with the introduction of the new 42.5 per cent dividend top rate, should concentrate the minds of tax advisers and clients on preparing to take pre-emptive action sooner rather than later.

Sole traders and partnerships

Q1. Will the proposed 50 per cent top rate tip the balance in favour of incorporation for sole traders and partnerships?

A. It depends. The difference between the effective tax rates on profits taken from companies and unincorporated businesses will narrow in April 2010. However, where companies distribute all profits by way of dividends (normally the most tax-efficient method), the effective tax/national insurance rate for individuals with income of over £150,000 will still be lower for sole traders/partners, except in the case of small companies whose profits do not exceed £300,000. The following table illustrates the position in each case:

| Form of income received by individual | | Effective rate % | | |
|---------------------------------------|-----------------------|------------------|---------|---------|
| | | 2009/10 | 2010/11 | 2011/12 |
| Dividend | Small company | 40.75 | 49.53 | 49.53 |
| | Marginal rate company | 47.31 | 55.12 | 55.12 |
| | Large company | 46.00 | 54.00 | 54.00 |
| Profit share (sole trader or partner) | | 41.00 | 51.00 | 51.50 |

Notes:

1. Income tax and national insurance rates are as announced in the Budget.
2. The following corporation tax rates are assumed for each year:
 - Small companies: 21% on the first £300,000 of profits.
 - Marginal rate: 29.75% on profits between £300,000 and £1,500,000.
 - Large companies: 28% on profits over £1,500,000.

Q2. Any exceptions to this general rule?

A. Yes. If, exceptionally, business owners wish to accumulate rather than distribute all profits, it would be beneficial to incorporate so that profits would only be subject to the much lower corporation tax rates. Such a policy might, for example, enable partners in a professional services partnership to receive a capital distribution on retirement.

Similarly, it might be possible to form a company to carry out a one-off project, after which the company is liquidated, with a capital distribution to shareholders. The following table shows the effective tax rates for individuals in this scenario, compared with the rates that would apply to sole trader or partnership profit shares:

| Form of income/capital received by individual | | Effective rate % | | |
|---|-----------------------|------------------|---------|---------|
| | | 2009/10 | 2010/11 | 2011/12 |
| Capital distribution on liquidation | Small company | 35.22 | 35.22 | 35.22 |
| | Marginal rate company | 42.40 | 42.40 | 42.40 |
| | Large company | 40.96 | 40.96 | 40.96 |
| Profit share (sole trader or partner) | | 41.00 | 51.00 | 51.50 |

Notes:

1. Income tax and national insurance rates are as announced in the Budget.
2. It is assumed that the capital gains tax rate remains at 18% for each year. Effective rates would be lower for shareholders who qualify for Entrepreneur's Relief.
3. The following corporation tax rates are assumed for each year:
 - Small companies: 21% on the first £300,000 of profits.
 - Marginal rate: 29.75% on profits between £300,000 and £1,500,000.
 - Large companies: 28% on profits over £1,500,000.

HMRC will be looking more closely at schemes to convert income to capital in view of the increasing difference between income tax and capital gains tax rates, so care will be needed when structuring any arrangements.

Q3. How might the effect of the 50 per cent rate be deferred?

A. Sole traders and partnerships could consider changing their accounting date from, say, 30 April 2010 or 31 May 2010 to 31 March 2010. This will result in profits being taxed in 2009/10 instead of 2010/11. Overlap relief may incidentally reduce the taxable amount.

No commercial justification is required for the change of date, providing the date has not been changed in any of the previous five tax years. However, a change to 31 March would accelerate the date on which tax is paid on future profits, although another change of date could be considered five years down the line.

Q4. How might the effect of the 50 per cent rate be mitigated in future?

A. Profits could be taken out of the income tax regime by either admitting a corporate partner or using a service company to supply staff or other services, for a fee. The corporate share of profits, taxed at lower corporation tax rates, could be accumulated and used to meet future costs such as property refurbishment expenses. It might also be possible to extract such funds by way of a future capital distribution. The corporate partner route is likely to offer more scope and flexibility than with a simple service company. However, care would be required if there was a possibility of losses arising, as loss relief for corporate partners may be restricted.

Directors and employees

Q1. How do the proposed 50 per cent top tax rate and 42.5 per cent dividend top tax rate affect the bonus v dividend comparison for 2010/11?

A. Dividends are still more efficient in all cases. The following table shows the position for individuals with income in excess of £150,000:

| Form of income received by individual | | Effective rate 2010/11 % | Extra net cash received for every £10,000 of pre-tax profit distributed as dividend £ |
|---------------------------------------|-----------------------|--------------------------|---|
| Dividend | Small company | 49.53 | 704 |
| | Marginal rate company | 55.12 | 145 |
| | Large company | 54.00 | 257 |
| Salary/bonus | | 56.57 | - |

Q2. How might the effect of the 50 per cent rate be deferred?

- A.**
- Employers could consider bringing forward the date of a bonus payment to directors or employees (for example, from May 2010 to March 2010).
 - If directors or employees are holding share options that will result in an income tax liability when exercised, they could consider exercising these before 6 April 2010, if scheme rules permit.

Q3. How might the effect of the 50 per cent rate be mitigated in future?

- A.**
- Companies could simply retain surplus funds instead of immediately distributing these to be taxed at higher rates in the recipients' hands.
 - Companies could consider using a type of share scheme in which the rewards are taxed as capital at 18 per cent and not income at up to 50 per cent. Schemes that use split interest or freezer shares might be appropriate, depending on the company and the directors or employees.

Q4. How will the 50 per cent rate and the proposed restriction of pensions tax relief affect profit extraction by pension contributions in future years?

A. For individuals whose income exceeds £150,000, the effective tax/national insurance rate for profits extracted by way of pension contributions begins to look prohibitive in April 2011. The following table illustrates effective tax/national insurance rates for an individual whose income exceeds £180,000 (so that tax relief for pension contributions is entirely restricted to basic rate relief):

| Type of pension contribution | Effective rate % | | |
|--|------------------|---------|---------|
| | 2009/10 | 2010/11 | 2011/12 |
| Company contribution or salary sacrifice | 30.00 | 37.50 | 67.50 |
| Personal contribution out of net salary | 41.16 | 49.77 | 66.56 |

Notes:

1. Income tax and national insurance rates are as announced in the Budget.
2. It is assumed that the individual is not affected by the transitional pensions rules in 2009/10 or 2010/11.
3. It is assumed that the individual receives 25% of the pension fund tax free.
4. For net return comparison purposes, it is assumed that the remaining 75% of the pension fund is taxed at the same income tax rate as the rate at which the contributions received tax relief.
5. For employer pension contributions made in 2011/12 onwards it is assumed that a 30% tax charge will be levied on the individual, but the exact mechanics are not yet known.

The restriction of pensions tax relief after April 2011 will affect many individuals who had hoped to complete their retirement funding plans on the basis of the regime that came into force in April 2006. The new proposals mean that such planning for high-earning employees will have to be completely reviewed. Some individuals may take the view that pension contributions are no longer worthwhile, and consider alternative methods of funding for retirement.

Expatriate employees working in the UK

Q1. How will the proposed 50 per cent top tax rate particularly affect expatriate employees working in the UK?

A. UK employers who provide tax equalisation packages for expatriate workers from other countries may face disproportionately higher costs from April 2010, due to the cost of grossing up net pay.

Example 1

An employer's tax equalisation cost can increase significantly when the employee's marginal tax rate increases from 40 per cent to 50 per cent. In this example, the employer's cost increases by 140 per cent:

| Bonus arrangements | 2009/10 (40% marginal tax rate) | 2010/11 (50% marginal tax rate) |
|---|--|--|
| | £ | £ |
| Net bonus promised to employee (£50,000 less employee's hypothetical tax contribution at 30%) | 35,000 | 35,000 |
| UK tax liability | 23,334 (Note 1) | 35,000 (Note 2) |
| Employee's hypothetical tax contribution | (15,000) | (15,000) |
| Employer-funded element of UK tax liability | 8,334 | 20,000 |
| Notes: | | |
| 1. £58,334 x 40% | | |
| 2. £70,000 x 50% | | |
| 3. It is assumed that no duties are performed outside the UK, and therefore no relief for non-UK workdays is claimed. | | |

Q2. How might the effect of the 50 per cent rate be deferred?

A. As described above, employers could consider bringing forward the date of payment of a bonus, allowances or assignment related benefits from 2010/11 to 2009/10.

Q3. How might the effect of the 50 per cent rate be mitigated in future?

- Employers could consider deferring the payment of some remuneration until an employee leaves the UK.
- In general terms, employers may now need to review the use of tax equalisation packages, and redesign remuneration packages to make better use of measures such as salary sacrifice arrangements, dual contracts, altering the timing of payments, and alternative forms of reward such as share schemes that offer capital gains.

Shareholders

Q1. How will dividends be affected by the new 42.5 per cent rate?

A. Not all shareholders with incomes of over £150,000 may have realised that the proposed increase in the dividend top tax rate to 42.5 per cent represents a massive increase of over 44 per cent in the effective rate on their net dividends. This is how it will work:

| | <u>2009/10</u> | <u>2010/11</u> |
|------------------------|----------------|--------------------|
| | £ | £ |
| Cash dividend | 90 | 90 |
| Tax credit (1/9) | <u>10</u> | <u>10</u> |
| Gross dividend | <u>100</u> | <u>100</u> |
| Tax – at 32.5 per cent | 32.50 | |
| – at 42.5 per cent | | 42.50 |
| Less: tax credit | (10.00) | (10.00) |
| Tax liability | <u>22.50</u> | <u>32.50</u> |
| Effective rate | 25.0% | 36.1% |
| | | (= 44.4% increase) |

Q2. How might the effect of the 42.5 per cent rate be deferred?

A. Companies could consider bringing forward dividend payments from, say, April or May 2010 to 31 March 2010. Although the higher-rate tax will be payable a year sooner, the saving (£11,111 on a net dividend of £100,000) will generally outweigh this. If necessary, shareholders could loan funds to the company in the short-term.

Budget 2009 (II)

The new top tax rates - trusts

The proposed 50 per cent top tax rate for individuals will only affect those with incomes of over £150,000. However, the 50 per cent rate will also apply to the taxable income of discretionary and accumulation and maintenance (A & M) trusts – irrespective of the level of that income. What effect will this and the 42.5 per cent dividend rate have on beneficiaries, and what can trustees do?

Discretionary and A & M trusts

Q1. How will the proposed 50 per cent top rate and 42.5 per cent dividend rate affect beneficiaries?

A. The net income of such trusts will be reduced, as shown in the following example:

Example I

| | <u>2009/10</u> | <u>2010/11</u> |
|---|----------------|----------------|
| | £ | £ |
| Gross bank interest | 10,000 | 10,000 |
| Dividends (gross) | 10,000 | 10,000 |
| Less tax credit on dividends | <u>(1,000)</u> | <u>(1,000)</u> |
| | 19,000 | 19,000 |
| Less: Tax on gross interest (basic rate on £1,000) | (200) | (200) |
| Tax on gross interest (higher rate on remainder) | (3,600) | (4,500) |
| Higher rate tax on dividends (Tax at 32.5%/42.5%, less tax credit) | <u>(2,250)</u> | <u>(3,250)</u> |
| | <u>12,950</u> | <u>11,050</u> |

The reduction of £1,900 is a reduction of almost 15 per cent in the trust's net income. However, most beneficiaries should be able to recover some or all of the 50 per cent tax credit on distributed income.

Q2. How might the effect of the 50 per cent and 42.5 per cent rates be deferred?

A. Trustees could consider:

- Accelerating income into the 2009/10 tax year, for example by closing investment accounts before 6 April 2010.
- Making tax-efficient income distributions before 6 April 2010 if there is a tax pool in respect of undistributed income.

Q3. How might the effect of the 50 per cent and 42.5 per cent rates be mitigated in future?

A. If it is not planned to accumulate income, or if some beneficiaries cannot recover a 50 per cent tax credit, trustees could consider creating a revocable interest in possession for a beneficiary, so that trust income will be taxed at lower rates. More fundamentally, the trustees could consider converting the entire trust to an income in possession trust, if this is permitted under the trust's governing documents and if it would be appropriate in view of the beneficiaries' circumstances. The trust would nevertheless remain within the relevant property regime and be liable to IHT ten yearly and exit charges.

Interest in possession trusts

Q1. How might the effect of the 50 per cent and 42.5 per cent rates be mitigated in future?

A. Although the new tax rates will not affect the rate at which the trustees of interest in possession trusts pay tax, they will affect beneficiaries of such trusts with total income of over £150,000. In such cases trustees could consider accelerating income into 2009/10 as mentioned above, and investing for capital growth

Budget 2009 (III)

Extended loss carry-back

When we looked at the original extended loss carry-back proposals in January 2009 we ended our article with the comment “Let’s hope that the qualifying period is lengthened”. Well, Finance Bill 2009 does indeed add another qualifying loss-making year (the 2009/10 tax year for unincorporated businesses, and accounting period(s) ending in the year to 23 November 2010 for companies). So unincorporated businesses can now carry back a loss of up to £50,000 in each of the 2008/09 and 2009/10 tax years up to three years, and companies can now carry back losses of up to £50,000 in accounting periods ending between 24 November 2008 and 23 November 2010 up to three years. But does this mean that loss-making businesses will be able to carry back losses of £100,000 for up to three years?

Maybe...

The draft legislation specifies that the loss in each qualifying year must strictly be deducted from profits of later years first, and then against profits of earlier years. Whether it will be possible to carry back losses of £50,000 for each of two loss-making periods under the extended carry-back rules will depend on the pattern of profits and losses.

Example 1

Luckyco Limited has the following results:

| | £ |
|-------------------------|-----------|
| Year ended 30 June 2006 | 50,000 |
| Year ended 30 June 2007 | 100,000 |
| Year ended 30 June 2008 | 30,000 |
| Year ended 30 June 2009 | (90,000) |
| Year ended 30 June 2010 | (125,000) |

Losses can be relieved as follows:

| | Y/e 30.6.06 | Y/e 30.6.07 | Y/e 30.6.08 | Y/e 30.6.09 | Y/e 30.6.10 |
|---------------------------------|----------------|----------------|----------------|----------------|----------------|
| Profit/(loss) | 50,000 | 100,000 | 30,000 | (90,000) | (125,000) |
| One-year carry-back (unlimited) | | | (30,000) | 30,000 | |
| Extended carry-back (1) | | (50,000) | | 50,000 | |
| Extended carry-back (2) | | (50,000) | | | 50,000 |
| Loss carried forward | | | | (10,000) | (75,000) |
| Chargeable profit | 50,000 | - | - | - | - |

No problem there - £50,000 of the loss for the period ended 30 June 2009 has been carried back two years, and £50,000 of the loss for the period ended 30 June 2010 has been carried back three years. But what if the profits for the years ended 30 June 2006 and 30 June 2007 had been reversed?

Maybe not...

Example 2

Unluckyco Limited has the following results:

| | £ |
|-------------------------|-----------|
| Year ended 30 June 2006 | 100,000 |
| Year ended 30 June 2007 | 50,000 |
| Year ended 30 June 2008 | 30,000 |
| Year ended 30 June 2009 | (90,000) |
| Year ended 30 June 2010 | (125,000) |

Losses can be relieved as follows:

| | Y/e 30.6.06 | Y/e 30.6.07 | Y/e 30.6.08 | Y/e 30.6.09 | Y/e 30.6.10 |
|---------------------------------------|----------------|----------------|----------------|----------------|----------------|
| Profit/(loss) | 100,000 | 50,000 | 30,000 | (90,000) | (125,000) |
| One-year carry-back (unlimited) | | | (30,000) | 30,000 | |
| Extended carry-back (1) | | (50,000) | | 50,000 | |
| Extended carry-back (2) | | | | | - |
| Loss carried forward | | | | (10,000) | (125,000) |
| Chargeable profit | 100,000 | - | - | - | - |

Unfortunately, none of the loss for the year ended 30 June 2010 can be carried back, despite the fact that total profits and losses are the same as in Example 1. It seems rather unfair and arbitrary that the efficacy of a loss relief designed to help businesses in a recession should depend entirely on profit patterns – especially as the pattern in Example 2 of declining profits, followed by losses, is the more likely in the run-up to the recession. The draft legislation could be improved simply by removing the requirement to set losses against later years first (so that in Example 2 £50,000 of the loss for the year ended 30 June 2009 could be carried back to the year ended 30 June 2006, enabling the loss for the year ended 30 June 2010 to be carried back to the year ended 30 June 2007). However, HMRC – at least initially – does not appear willing to agree to such an amendment.

Denied by the cut-off date?

The other arbitrary aspect of the extended loss carry-back proposals is the November 23 cut-off date derived from the date of the Pre-Budget Report announcement in November 2008. Many companies have a 31 December accounting date, and the measure would therefore benefit considerably more companies if the cut-off date were changed to 31 December 2010.

As we commented in our January 2009 article, unincorporated businesses with the very common 30 April year end could also lose out. Any such businesses who did not change their year end to 31 March 2009 might now consider a change to 31 March 2010

from 30 April 2010 if losses are still currently being incurred. As we illustrated in January, the possible benefit of overlap relief on a change of accounting date should be taken into account.

Group relief

It appears that group relief claims will take precedence over the proposed extended relief.

Example 3

If in Example 1 group relief of £75,000 had been claimed for the period ended 30 June 2007, the position is probably as follows:

| | Y/e 30.6.06 | Y/e 30.6.07 | Y/e 30.6.08 | Y/e 30.6.09 | Y/e 30.6.10 |
|---------------------------------------|----------------|----------------|----------------|----------------|----------------|
| Profit/(loss) | 50,000 | 100,000 | 30,000 | (90,000) | (125,000) |
| One-year carry-back (unlimited) | | | (30,000) | 30,000 | |
| Group relief | | (75,000) | | | |
| Extended carry-back (1) | (25,000) | (25,000) | | 50,000 | |
| Extended carry-back (2) | | - | | | 50,000 |
| Loss carried forward | | | | (10,000) | (175,000) |
| Chargeable profit | 25,000 | - | - | - | - |

Good and bad news

This extension of the loss-making period gives businesses more notice than when the original measure was announced in the Pre-Budget Report. So, for example, companies with a 31 December 2009 year end have more time to consider paying additional pension contributions to create or increase a loss. However, care will be needed not to fall foul of the pensions anti-forestalling measures in relation to increased contributions on or after 22 April 2009!

Summary

Any improvement is better than nothing. However, clients and advisers should wait until after the Finance Bill receives Royal Assent before making any changes, in case the draft legislation is amended in response to representations on matters such as the order of years in which losses can be carried back, and the 23 November 2010 cut-off date.

Budget 2009 (IV)

Furnished holiday lettings: an opportunity – but beware of pitfalls!

The Chancellor announced that the treatment of qualifying furnished holiday lettings (FHL) as a trade will be extended to all properties in the European Economic Area (EEA) until 5 April 2010, before being abolished for all properties (including UK properties) thereafter. This provides a limited opportunity to claim loss relief and certain capital gains tax reliefs in relation to non-UK properties.

Income tax

The commercial letting of FHL accommodation is treated as a deemed trade if the property is available for holiday letting to the public on a commercial basis for at least 140 days, and is actually let commercially for at least 70 days, in a 12-month period, provided it is not continuously let to the same person for more than 31 days in a 7-month period.

The extension of FHL treatment to properties in the EEA until 5 April 2010 gives owners the chance to claim capital allowances and loss relief against other income or capital gains.

Capital gains tax

Taxpayers who have disposed of non-UK properties in recent years may now be able to claim reliefs such as retirement relief, taper relief, business asset rollover relief and relief for gifts of business assets

Going forward, properties that meet the FHL requirements can be disposed of with the benefit of CGT reliefs until 5 April 2010. This may be of limited benefit in some cases, in view of the fall in property values, but it could be useful where a property was purchased at a much lower cost many years ago. So owners of furnished holiday homes that are standing at a gain should be advised that if they are considering a disposal, it might pay to effect this before 6 April 2010.

The opportunities in relation to non-UK properties may be limited, as many such properties are owned via limited companies, and many will not be let long enough to qualify for FHL treatment. However, it will always be worth checking the position, taking care to consider two possible pitfalls:

- the effect of currency exchange movements, which in some cases have resulted in a loss or small gain being translated into a substantial gain.
- A possible foreign tax liability on disposal.

Example 1

Bernard, who is domiciled and resident in the UK, bought a holiday property in France for €1m in January 2007 and sold it for €900,000 in May 2009. At first sight, a capital loss has arisen. However, the sterling equivalent purchase price was £660,000 (at the January 2007 exchange rate of 0.66), and the sterling equivalent sale price was £810,000 (at the May 2009 exchange rate of 0.90). So – a gain of £150,000! However, entrepreneurs' relief may reduce the effective UK tax rate to 10 per cent if the property qualified under the FHL rules.

How retrospective is the FHL treatment for non-UK properties?

This will depend on the type of claim or request for FHL treatment:

| Time limit for claim | Examples of claims or requests for FHL treatment | Earliest year/period for which FHL treatment can be claimed | Comments |
|--|--|--|---|
| Deadline for amending tax return | Capital allowances Loss relief against other income or capital gains | Income tax/ capital gains tax: 2006/07 Corporation tax: accounting periods ending on or after 31 December 2006 | The normal deadlines for amending 2006/07 income tax/capital gains tax returns and corporation tax returns for accounting periods ending on or after 31 December 2006 have been extended to 31 July 2009. |
| 5 years and 10 months after end of tax year (income tax/capital gains tax) or 6 years after end of accounting period (corporation tax) | Loss relief carried forward Terminal loss relief Relief for pension contributions Landlord's Energy Saving Allowance Entrepreneurs' Relief Taper Relief Retirement relief Hold-over relief Roll-over relief Substantial shareholdings exemption | Income tax/ capital gains tax: 2003/04 (for claims made by 31 January 2010) Corporation tax: accounting periods ending on or after 31 January 2004 (for claims made by 31 January 2010) | |

Points to note

- FHL treatment for a non-UK property is optional, so there is no obligation to amend earlier years' returns if FHL treatment would not be beneficial.
- If FHL treatment is applied to a non-UK property it would mean that the wear and tear allowance would not be available.
- The property must be situated in the EEA in the period for which a claim is made - see the list of EEA countries, and the dates on which some countries recently became members, in the adjacent panel. Assets can be treated as a trade asset for capital allowances and capital gains tax purposes from the latest of the following dates:
 - 1 January 1994
 - the date the property was first let as a qualifying FHL
 - the date on which the country in which the property is situated joined the EEA.

Which countries are in the EEA?

The EEA comprises:

Austria
Belgium
Bulgaria (since January 2007)
Cyprus (since May 2004)
Czech Republic (since May 2004)
Denmark
Estonia (since May 2004)
Finland
France
Germany
Greece
Hungary (since May 2004)
Iceland
Ireland
Italy
Latvia (since May 2004)
Liechtenstein
Lithuania (since May 2004)
Luxembourg
Malta (since May 2004)
Netherlands
Norway
Poland (since May 2004)
Portugal
Romania (since January 2007)
Slovakia (since May 2004)
Slovenia (since May 2004)
Spain
Sweden
United Kingdom

From 6 April 2010, the only FHLs which will be taxed as a trade will be those which amount to a trade on first principles. These are more likely to be linked to hotel operations, and it is unlikely that traditional FHLs will qualify.

Budget 2009 (V)

Compliance – the burdens mount

New penalties for submitting incorrect tax returns, and new powers for HM Revenue and Customs (HMRC) already came into effect on 1 April 2009. The Finance Bill contains more details of the second phase of the new penalty regime – for late submission of returns and late payment of tax – but the need to maximise tax revenues and prevent tax evasion has led the Chancellor to go further.

New penalties – Phase 2

Late submission of returns

From a date to be specified, there will be a new unified penalty regime for failure to submit the following types of return on time: Income tax and capital gains tax; Corporation tax; Pension schemes; PAYE and NIC; CIS; IHT; SDLT; SDRT and PRT.

The main features of the new regime are:

- Fixed penalties will apply irrespective of whether the full tax liability has been paid by the due date.
- Tax-gear penalties will be due where returns are submitted more than six or twelve months late.
- Some penalties can be reduced if any deliberately withheld information is disclosed to HMRC.

The following pages contain an at-a-glance guide:

| Type of return | Return not submitted by: | Penalty | Maximum reduction for disclosure | | |
|--------------------------------|--|---|---|-----------------------------|-----------------------------|
| | | | Unprompted | Prompted | |
| All returns except CIS returns | Due date | £100 | N/A | N/A | |
| | 3 months after due date | Daily penalty of £10 if return not submitted after issue of HMRC notice | N/A | N/A | |
| | 6 months after due date | Greater of £300 or 5 per cent of any unpaid tax | N/A | N/A | |
| | 12 months after due date, and information that would enable or assist HMRC to assess tax is withheld | If withholding deliberate and concealed | Greater of £300 or 100% of any unpaid tax | 70% (but not to below £300) | 50% (but not to below £300) |
| | | If withholding deliberate but not concealed | Greater of £300 or 70% of any unpaid tax | 50% (but not to below £300) | 35% (but not to below £300) |
| | | All other cases | Greater of £300 or 5% of any unpaid tax | N/A | |

| Type of return | Return not submitted by: | Penalty | Maximum reduction for disclosure | | |
|----------------|--|---|---|-------------------------------|-------------------------------|
| | | | Unprompted | Prompted | |
| CIS returns | Due date | £100 | N/A | | |
| | 2 months after due date | £200 | N/A | | |
| | 6 months after due date | Greater of £300 or 5% of any unpaid tax | N/A | | |
| | 12 months after due date, and information that would enable or assist HMRC to assess tax is withheld | If withholding deliberate and concealed | Greater of £3,000 or 100% of any unpaid tax. | 70% (but not to below £3,000) | 50% (but not to below £3,000) |
| | | If withholding deliberate but not concealed | £3,000 if return relates only to persons who are paid gross | N/A | |
| | | | Greater of £1,500 or 70% of any unpaid tax | 50% (but not to below £1,500) | 35% (but not to below £1,500) |
| | All other cases | £1,500 if return relates only to persons who are paid gross | N/A | | |
| | | Greater of £300 or 5% of any unpaid tax | N/A | | |

Notes:

1. No penalty will be due if the taxpayer can satisfy a Tribunal that there was a reasonable excuse for failure to submit a return.
2. HMRC can reduce a penalty in special circumstances.
3. In the case of partnership returns, each partner will be liable to a penalty.
4. Total tax-gearred penalties cannot exceed 100% of any unpaid tax.

Late payment of tax

There will also be a new unified penalty regime for failure to pay the following taxes on time: Income tax and capital gains tax; Corporation tax; PAYE and NIC; CIS; IHT; SDLT; SDRT and PRT.

The main features of the new regime are:

- Penalties for late payment of monthly PAYE & NIC and CIS tax will be charged at an increasing rate depending on the number of late payments in a tax year.
- Penalties can be suspended – if the taxpayer requests deferment of the tax in question before the penalty date.

The following page contains an at-a-glance guide:

| Tax | Tax not paid by: | Penalty | Commencement date |
|---|--|---|-------------------|
| All except corporation tax, and PAYE & NIC or CIS tax for periods of less than 6 months | Due date | 5% of the unpaid tax | TBA |
| | 5 months after the 'penalty date' which, in most cases is 30 days after the normal due payment date | 5% of the unpaid tax | |
| | 11 months after the 'penalty date' which, in most cases is 30 days after the normal due payment date | 5% of the unpaid tax | |
| Corporation tax | Due date | 5% of the unpaid tax | TBA |
| | 3 months after filing date | 5% of the unpaid tax | |
| | 9 months after filing date | 5% of the unpaid tax | |
| PAYE & NIC or CIS tax for periods of less than 6 months | Due date | First late payment in a tax year - nil | April 2010 |
| | 2 nd , 3 rd or 4 th late payments in a tax year: 1% of unpaid tax | 2 nd , 3 rd or 4 th late payments in a tax year: 1% of unpaid tax | |
| | 5 th , 6 th or 7 th late payments in a tax year: 2% of unpaid tax | 5 th , 6 th or 7 th late payments in a tax year: 2% of unpaid tax | |
| | 8 th , 9 th or 10 th late payments in a tax year: 3% of unpaid tax | 8 th , 9 th or 10 th late payments in a tax year: 3% of unpaid tax | |
| | 11 th or more late payments in a tax year: 4% of unpaid tax | 11 th or more late payments in a tax year: 4% of unpaid tax | |
| | 6 months after due date | 5% of the unpaid tax | |
| 12 months after due date | 12 months after due date | 5% of the unpaid tax | |
| <p>Notes:</p> <ol style="list-style-type: none"> 1. No penalty will be due if the taxpayer can satisfy a Tribunal that there was a reasonable excuse for failure to pay the tax on time. 2. Taxpayers can ask HMRC to suspend a penalty for an agreed period 3. HMRC can reduce a penalty in special circumstances. | | | |

Example 1

Latepayer Ltd pays its 2010/11 PAYE & NIC liabilities as follows:

| <u>Month ended</u> | <u>Liability</u> | <u>Due date</u> | <u>Date paid</u> | <u>Penalty</u> | <u>Comments</u> |
|--------------------|------------------|-----------------|------------------|----------------|--|
| | £ | | | £ | |
| 5.5.2010 | 110,000 | 19.5.2010 | 18.5.2010 | N/A | |
| 5.6.2010 | 105,000 | 19.6.2010 | 30.6.2010 | Nil | First failure |
| 5.7.2010 | 120,000 | 19.7.2010 | 10.8.2010 | 1,200 | 1% (2nd failure) |
| 5.8.2010 | 110,000 | 19.8.2010 | 10.9.2010 | 1,100 | 1% (3rd failure) |
| 5.9.2010 | 125,000 | 19.9.2010 | 19.9.2010 | N/A | |
| 5.10.2010 | 115,000 | 19.10.2010 | 5.11.2010 | 1,150 | 1% (4th failure) |
| 5.11.2010 | 130,000 | 19.11.2010 | 9.12.2010 | 2,600 | 2% (5th failure) |
| 5.12.2010 | 120,000 | 19.12.2010 | 5.2.2011 | 2,400 | 2% (6th failure) |
| 5.1.2011 | 125,000 | 19.1.2011 | 8.4.2011 | 2,500 | 2% (7th failure) |
| 5.2.2011 | 120,000 | 19.2.2011 | 2.6.2011 | 3,600 | 3% (8th failure) |
| 5.3.2011 | 125,000 | 19.3.2011 | 8.8.2011 | 3,750 | 3% (9th failure) |
| 5.4.2011 | 130,000 | 19.4.2011 | 25.10.2011 | 10,400 | 3% (10th failure, plus 5% as over 6 months late) |

Advisers should help taxpayers to improve systems in order to avoid penalties for late submission of returns and late payment of tax. In addition, a key point for taxpayers will be to inform their adviser immediately it is known that there might be a late payment, so that there is time to make an application to defer tax and suspend any penalty.

New HMRC powers**Personal accountability for Senior Accounting Officers**

The announcement that Senior Accounting Officers (SAOs) of large companies would be held personally responsible for annually certifying that their companies' accounting systems were adequate for tax reporting purposes caused some consternation. Fortunately, the government has already backtracked on this proposal and has announced that it will now only affect those companies having a large business relationship with HMRC, involving a customer relationship manager. It is estimated that this will reduce the number of affected companies to around 2,000 (instead of 60,000).

Naming and shaming

The proposal here is to publish the name - and the address or registered office - of taxpayers who have deliberately understated their tax liabilities by at least £25,000. Fortunately, there will be a get-out: HMRC must first inform the taxpayer that it is considering taking this action, which can be avoided if the taxpayer makes a full disclosure of their affairs. Once again, advisers will need to act quickly if a taxpayer receives a notice that publication is being considered.

More detailed tax returns

From a date to be announced, taxpayers who incur a deliberate evasion penalty in respect of tax of at least £5,000 will have to submit returns for up to the following 5 years showing more detailed business accounts information and detailing the nature and value of any balancing adjustments within the accounts.

At first sight this should not involve too much additional work or cost, as such information will normally be generated when preparing accounts in any case, and indeed many advisers already submit full accounts for disclosure purposes.

VAT partial exemption

Some helpful changes

The partial exemption rules are one of the more 'fiddly' aspects of VAT compliance for businesses. Costs need to be analysed between those that relate entirely to taxable supplies, those that relate entirely to exempt supplies, and other 'residual' costs. The allowable input tax must then normally be calculated for each VAT return period, and adjusted annually. Anything that would simplify this process is to be welcomed - the government is considering introducing a significant general simplification next year, but in the meantime HMRC has recently announced four specific relaxations.

Not for everyone

The relaxations can only be used by businesses that use the 'standard method' of VAT partial exemption accounting. The main feature of the standard method is that the recoverable percentage of residual input tax is arrived at by the formula:

$$\frac{\text{VAT-exclusive value of taxable supplies in the VAT period}}{\text{VAT-exclusive value of all supplies in the VAT period}}$$

So if you have agreed a special method with HMRC, the relaxations unfortunately will not apply to you! However, it might be worth checking whether it would be beneficial to change to the standard method, to take advantage of one or more of the relaxations.

Relaxation 1: all types of business can now use the standard method

Details

Previously, the standard method could only be used by businesses that made taxable supplies in the UK. This no longer applies, so the standard method can now also be used by businesses that make the following types of supplies:

- Services to customers outside the UK.
- Certain financial supplies such as shares or bonds.
- Supplies made from establishments outside the UK.

However, a use-based calculation will still be needed in relation to input tax on supplies of money or certain securities and supplies made from establishments outside the UK.

How does this help?

- Previously excluded businesses will be able to adopt the standard method.
- Such businesses will no longer need to seek approval of a special method – which could save approval and implementation costs of between £3,000 and £9,000.

When can this relaxation be used?

All businesses can use the standard method in VAT periods beginning on or after 1 April 2009.

Relaxation 2: provisional recovery rate

Details

Instead of calculating the percentage of input tax that can be recovered for each VAT accounting period, a business can simply use the percentage arrived at in the previous year's annual adjustment. So, for example, if the previous year's final percentage was 60 per cent, this can provisionally be used in each VAT period in the following year, with an annual adjustment being calculated in the normal way at the end of that year.

How does this help?

- This will avoid the need to make four or twelve separate input tax recovery percentage calculations every year. HMRC estimates that this could benefit up to 20,000 businesses.
- Some businesses will no longer need to seek approval of a special method.

When can this relaxation be used?

Businesses can adopt this measure in a partial exemption year beginning on or after 1 April 2009.

Relaxation 3: earlier annual adjustment

Details

Instead of dealing with the annual adjustment in the first VAT return of the following partial exemption year, businesses can now deal with this in each year's final VAT return.

How does this help?

- This will avoid the need to make a separate fifth calculation each year.
- Businesses that adopt relaxation 2 above will know their provisional recovery percentage for the following year sooner.

When can this relaxation be used?

Businesses can adopt this measure for partial exemption years ending on or after 30 April 2009.

Relaxation 4: use-based recovery method for new businesses

Details

Instead of using the standard method (which might be inappropriate) or seeking approval for a special method, new partly-exempt businesses can use an input tax recovery percentage on the basis of use in one of the following periods:

- The registration period (from the date of VAT registration to the day before the start of its first VAT tax year).
- The first VAT tax year, providing no input tax was incurred in relation to exempt supplies in the registration period.
- Any VAT tax year, providing no input tax was incurred in relation to exempt supplies in the previous tax year.

How does this help?

- This will provide a fair and reasonable input tax recovery percentage calculation for new partly-exempt businesses.
- Some new partly-exempt businesses will no longer need to seek approval of a special method.

When can this relaxation be used?

Businesses can adopt this measure in VAT periods beginning on or after 1 April 2009.

Summary

These relaxations will benefit some businesses, and business owners and their advisers should check whether it might be appropriate to adopt them. The use of relaxations 2 – 4 is entirely optional, and there is no need to notify HMRC of their adoption. Relaxation 1 is compulsory in the sense that if the standard method is used, it will cover input tax on all types of supply.

Tailpiece

Telephone advice from HMRC is not binding

HMRC's 'National Advice Service' provides telephone advice to taxpayers on VAT and other indirect taxes. However, a recent High Court case has shown that businesses should not (and indeed cannot!) rely on such advice.

In August 2007 HMRC issued an assessment on a UK drinks wholesaler to recover VAT of over £315,000, plus a surcharge and interest, in relation to a failure to account for VAT on sales of beverages to Poland. The company's director was surprised to receive this as, before arranging the sales, he had asked HMRC's National Advice Service (NAS) whether VAT should be charged. He had been advised that it was not necessary to charge VAT, and therefore applied for a judicial review of the assessment, arguing that he was entitled to rely on the advice he had received.

The High Court heard the case in March 2009, and it transpired that the advice given by the NAS was that VAT should not be charged provided that the normal conditions for zero-rating supplies to other EU member states were met. One of these conditions is that the UK company should show its customer's EU VAT registration number on its invoices. In this case, that condition could not be met, because the UK company's customer was based outside the EU, but it had asked for the goods to be delivered direct to its own customer in Poland.

The UK company's director argued that he had explained the circumstances and that he had only contacted the NAS because he knew that there could be a problem. However, based on the notes made by the NAS officer, the High Court ruled that the circumstances could not have been fully disclosed and discussed during the brief telephone conversation, and refused to grant a judicial review. So this case proved to be a very expensive lesson for the taxpayer.

However, other taxpayers should carefully note two points that emerged from the case. Firstly, the company director made no notes of his call to the NAS, so more weight was given to the notes made by the NAS officer than to the director's recollection of what had been said. So if taxpayers use the NAS, they should make notes of the advice they receive.

Secondly, the judge made some very important general comments. He stated that verbal advice from HMRC would only be binding in "very exceptional circumstances", because the tax official would not normally have been put on proper notice that the taxpayer required a fully considered ruling which would be important and significant.

The moral therefore is that if taxpayers or their advisers wish to request a binding ruling from HMRC, they must fully disclose all the facts and circumstances, and obtain a written response.

Supplementary technical notes

These notes supplement the articles in Tax Insight, and are in the same sequence as the material in the articles. The notes incorporate references to statutory and other authorities, and the abbreviations used are those conventionally adopted by taxation advisers.

Budget 2009 (I) – Top tax rates (individuals)

From 2010/11 an additional 50 per cent rate of income tax will apply to an individual's taxable income in excess of £150,000, and an additional 42.5 per cent dividend rate of income tax will apply to dividends forming part of an individual's taxable income in excess of £150,000.

Sch 2 Finance Bill 2009

A change of accounting date will be effective for income tax purposes if there was no change in any of the five previous tax years. If there was a change in any of the previous five tax years, a subsequent change must be for commercial reasons (which do not include obtaining a tax advantage).

Ss 217 - 218 ITTOIA 2005

From April 2011, tax relief on pension contributions will be restricted for individuals with incomes of £150,000 and over. From that level of income, the value of pensions tax relief will be tapered down until it is 20 per cent for those on incomes over £180,000.

Para 5.92 Budget Report April 2009

A special annual allowance charge will effectively restrict tax relief for pension contributions of more than £20,000 per annum to 20 per cent, where these are made on or after 22 April 2009 for an individual whose relevant income exceeds £150,000, unless the contributions do not exceed existing contributions which are paid at least quarterly.

Sch 35 Finance Bill 2009

Effective tax rate for profit extraction by dividend payments to individuals with income of over £150,000, assuming no change in corporation tax rates (2010/11 and 2011/12):

| Company profit | | Up to £300,000 | £300,001 to £1,500,000 | Over £1,500,000 |
|---|-------|---------------------------|-----------------------------------|----------------------------|
| Marginal rate of corporation tax | | 21% | 29.75% | 28% |
| Profit | | 10,000 | 10,000 | 10,000 |
| Corporation tax | A | (2,100) | (2,975) | (2,800) |
| Distributable profit | | 7,900 | 7,025 | 7,200 |
| Dividend | B | (7,900) | (7,025) | (7,200) |
| Shareholder taxed on: | | | | |
| Cash | | 7,900 | 7,025 | 7,200 |
| Plus tax credit | C | 878 | 781 | 800 |
| | D | 8,778 | 7,806 | 8,000 |
| Higher rate tax to pay @ 42.50% | | | | |
| Less tax credit | E | 2,853 | 2,537 | 2,600 |
| Net cash received | (B-E) | 5,047 | 4,488 | 4,600 |
| Effective overall rate A + E / £10,000 | | 49.53% | 55.12% | 54.00% |

Effective tax and national insurance rates for sole traders and partnerships (individuals with income of over £150,000):

| | <u>2009/2010</u> | <u>2010/2011</u> | <u>2011/2012</u> |
|--------------------|-------------------------|-------------------------|-------------------------|
| Profit | 10,000 | 10,000 | 10,000 |
| Income Tax | (4,000) | (5,000) | (5,000) |
| NIC Class 4 | (100) | (100) | (150) |
| Net cash received | <u>5,900</u> | <u>4,900</u> | <u>4,850</u> |
| Effective tax rate | <u>41.00%</u> | <u>51.00%</u> | <u>51.50%</u> |

Effective tax rate for profit extraction by company pension contributions followed by the receipt of a pension, for individuals with income of over £150,000, assuming no change in corporation tax rates:

| | 2009/2010 | 2010/2011 | 2011/2012 |
|---|---------------------|---------------------|---------------------|
| Profit | 10,000 | 10,000 | 10,000 |
| Into pension | (10,000) | (10,000) | (10,000) |
| PCTCT | <u>0</u> | <u>0</u> | <u>0</u> |
| <u>Income Tax</u> | | | |
| At time of contribution | 0 | 0 | 3,000 |
| At time of receipt (on annuity income) | | | |
| In pension pot | 10,000 | 10,000 | 10,000 |
| Lump sum received tax free | (2,500) | (2,500) | (2,500) |
| Remaining | <u>7,500</u> | <u>7,500</u> | <u>7,500</u> |
| Tax on receipt | <u>3,000</u> | <u>3,750</u> | <u>3,750</u> |
| Total in hands | <u><u>7,000</u></u> | <u><u>6,250</u></u> | <u><u>3,250</u></u> |
| Total tax | 3,000 | 3,750 | 6,750 |
| Effective tax rate | 30.00% | 37.50% | 67.50% |

Effective tax rate for profit extraction by salary sacrifice or personal pension contributions followed by the receipt of a pension, for individuals with income of over £150,000, assuming no change in corporation tax rates:

| | 2009/2010 | 2010/2011 | 2011/2012 |
|----------------------------|------------------|------------------|------------------|
| Profit | 10,000 | 10,000 | 10,000 |
| Salary | 8,865 | 8,865 | 8,826 |
| Employers NIC | 1,135 | 1,135 | 1,174 |
| <u>Income Tax</u> | | | |
| PAYE on salary | 3,546 | 4,433 | 4,413 |
| employees NI | 89 | 89 | 132 |
| At time of contribution | (1,308) | (1,629) | |
| In pension pot | | | |
| - contribution | 6,538 | 5,430 | 5,351 |
| - tax refund | (1,308) | (1,086) | (1,070) |
| Lump sum received tax free | (1,634) | (1,357) | (1,338) |
| Remaining | 4,903 | 4,072 | 4,013 |
| Tax on receipt | 1,961 | 2,036 | 2,007 |
| Total in hands | 5,884 | 5,023 | 3,344 |
| Total tax | 4,116 | 4,977 | 6,656 |
| Effective tax rate | 41.16% | 49.77% | 66.56% |

Budget 2009 (II) – Top tax rates (trusts)

From 2010/11 the trust income tax rate will be 50 per cent and the dividend trust rate will be 42.5 per cent.

Clause 6 Finance Bill 2009

Budget 2009 (III) – Extended loss carry-back

Losses of up to £50,000 in the tax years 2008/09 and 2009/10 (for income tax) or in accounting periods ending in the 12 months to 23 November 2009 and 23 November 2010 (for corporation tax) can be carried back up to three years, against profits of later years first.

Sch 6 Finance Bill 2009

Group relief claims take precedence over claims for relief of losses carried back from subsequent accounting periods.

S 393A ICTA 1988
Para 3 Sch 6 Finance Bill 2009

Budget 2009 (IV) Furnished holiday lettings

The Furnished Holiday Lettings (FHL) rules will be repealed from April 2010. Until the repeal takes effect, the FHL rules will be extended to those with qualifying furnished holiday lettings elsewhere in the European Economic Area.

Para 5.116 Budget Report 2009

Budget 2009 (V) – Compliance

New penalties for late submission of tax returns.

Sch 55 Finance Bill 2009

New penalties for late payment of tax.

Sch 56 Finance Bill 2009

For financial years beginning on or after the date of Royal Assent, senior accounting officers (SAOs) of companies with a large business relationship with HMRC must take reasonable steps to ensure that their companies maintain appropriate tax accounting arrangements. Failure to do so will render the officer liable to a penalty of £5,000. SAOs must annually certify to HMRC that their companies had appropriate tax accounting arrangements. Failure to do so will render the officer liable to a penalty of £5,000.

Sch 46 Finance Bill 2009

Statement by Financial Secretary to the Treasury 13 May 2009

From a date to be announced, HMRC will publish the names and addresses of deliberate tax defaulters where the potential lost revenue exceeds £25,000.

Clause 93 Finance Bill 2009

From a date to be announced, taxpayers who incur a deliberate evasion penalty in respect of tax of at least £5,000 will have to submit returns for up to the following 5 years showing more detailed business accounts information and detailing the nature and value of any balancing adjustments within the accounts.

HMRC statement 22 April 2009

VAT partial exemption

Rules for recovery of input tax by partly exempt business, including the standard method and special methods.

Regs 99 – 110 SI 1995/2518
HMRC VAT Notice 706

Relaxations to the standard partial exemption method from April 2009.

HMRC VAT Information Sheet 04/09

Tailpiece

HMRC's National Advice Service (0800 010 9000) provides advice on VAT, Aggregates Levy, Air Passenger Duty, Climate Change Levy, Customs and Excise Duties, Insurance Premium Tax, Landfill Tax, Money Laundering Regulations and Rebated Oils. The NAS will advise on:

- Rules and Procedures
- Disclosure of confidential VAT information
- Rates of duty or tax
- Requests for publications
- Requests for duplicate VAT returns
- Contact details for local HMC offices

The NAS will **not** advise on:

- Case specific transactions
- Clearing an existing debt
- The progress of a VAT registration
- Specific import entry enquiries
- Matters arising from a visit by an HMRC officer
- Enquiries relating to the former Inland Revenue enquiry helplines
- Enquiries related to Charities or Disabled Reliefs

HMRC web posting

The High Court refused an application for a judicial review to quash a VAT assessment which the taxpayer claimed was not in accordance with advice he had received from the National Advice Service. The court found that the taxpayer could not have fully disclosed all the relevant circumstances, and that verbal advice given by HMRC would only be binding in very exceptional circumstances.

Corkteck Limited v HMRC [2009] EWHC 785 (Admin)

Memory jogger

An index covering three years from January 2006 to December 2008 was included in the December 2008 issue and appears at six-monthly intervals.

Readers may however like to be reminded here of some of the topics covered in recent issues - and where to find them.

| | |
|---|-----------------------|
| <i>Associated companies</i> | <i>Dec 08</i> |
| <i>Capital allowances</i> | |
| ■ <i>Cars</i> | <i>Feb 09</i> |
| ■ <i>Motorcycles</i> | <i>Mar 09</i> |
| <i>CGT</i> | |
| ■ <i>Entrepreneurs' relief</i> | <i>Sep 08, Dec 08</i> |
| <i>Company cars</i> | |
| ■ <i>Capital allowances and relief for hire costs</i> | <i>Feb 09</i> |
| <i>Corporation tax</i> | |
| ■ <i>Dividends from foreign companies</i> | <i>Dec 08</i> |
| ■ <i>Interest paid to connected lenders</i> | <i>Dec 08</i> |
| <i>Discounted gift plans</i> | <i>Apr 09</i> |
| <i>Dividend waivers</i> | <i>Feb 09</i> |
| <i>ECJ decisions affecting UK taxes</i> | <i>Mar 09</i> |
| <i>IHT</i> | |
| ■ <i>Business Property Relief</i> | <i>Feb 09</i> |
| ■ <i>The fourteen year cumulation period</i> | <i>Jan 09</i> |
| ■ <i>The transferable nil-rate band</i> | <i>Jul 08, Dec 08</i> |

| | |
|--|-----------------------|
| <i>Loans from close companies</i> | <i>Oct 08, Dec 08</i> |
| <i>Losses – extended loss carry-back</i> | <i>Jan 09</i> |
| <i>Mistakes by trustees</i> | <i>Nov 08</i> |
| <i>Negative goodwill and stock valuations</i> | <i>Apr 09</i> |
| <i>Negligible value claims</i> | <i>Jan 09</i> |
| <i>Non-domiciles</i> | <i>Sep 08, Feb 09</i> |
| <i>Pensions</i> | |
| ■ <i>Protection against a 55% tax charge</i> | <i>Jan 09</i> |
| <i>Properties</i> | |
| ■ <i>Taking advantage of falls in value</i> | <i>Nov 08</i> |
| ■ <i>Transferring properties to employees and shareholders</i> | <i>Mar 09</i> |
| <i>Purchase of own shares</i> | <i>Apr 09</i> |
| <i>Research & development relief</i> | <i>Nov 08</i> |
| <i>Specialty debt</i> | <i>Feb 09</i> |
| <i>Tax returns – disclosing information</i> | <i>Nov 08</i> |
| <i>Tax law rewrite – a quick guide</i> | <i>Apr 09</i> |
| <i>Trading losses – three year carry back</i> | <i>Jan 09</i> |
| <i>Trustees' fees</i> | <i>Mar 09</i> |
| <i>VAT</i> | |
| ■ <i>Creating a TOGC</i> | <i>Jan 09</i> |
| ■ <i>Imports</i> | <i>Dec 08</i> |
| ■ <i>Minimising delays</i> | <i>Feb 09</i> |

Looking ahead

Is there a particular topic you would like to see featured in a future article?

Readers often write to us with requests and suggestions which we are happy to receive and we will do our best to oblige.

So if there is a specific subject that you would like us to cover and which you think will be of interest to readers, please write to The Editor, Tax Insight, BDO Stoy Hayward LLP, 55 Baker Street, London W1U 7EU, or email editor@bdo.co.uk.

How we can help you

For more information about how we can help you and your clients please contact:

Paula Tallon

Email: paula.tallon@bdo.co.uk

T: +44 (0)20 7893 3477

F: +44 (0)20 7339 9011

Email: tspenquiries@bdo.co.uk

Visit our dedicated tax support website for accountants and other advisers: www.taxline3d.com

About BDO Stoy Hayward

BDO International is the world's fifth largest accounting network with 44,000 partners and staff, with more than 1,000 offices in over 100 countries.*

*Including exclusive alliances of BDO Member Firms.

BDO Stoy Hayward

55 Baker Street

London

W1U 7EU

T: +44 (0)20 7486 5888

F: +44 (0)20 7487 3686

Website: www.bdo.co.uk



'Best Workplace UK' – Financial Times 2008

'100 Best Companies to Work For' – The Sunday Times 2008

'Audit Team of the Year' – Accountancy Age Awards 2008

'Tax Team of the Year' – Accountancy Age Awards 2008

'Corporate Finance Deal of the Year' – Accountancy Age Awards 2008

Tax Insight is available by subscription only, at an annual cost of just £168. Subscribers to BDO Stoy Hayward LLP's Taxline3D service receive a 50 per cent discount on the cost of Tax Insight. Other clients receive a 25 per cent discount. To subscribe, please telephone 020 7893 3266, or visit www.taxline3d.com to download a subscription form.

BDO Stoy Hayward LLP is the Data Controller for any personal data that they hold about you. To correct your personal details, or if you do not wish us to provide you with information that we believe may be of interest to you, please telephone 020 7893 2301 or email tspenquiries@bdo.co.uk.

Whilst every care has been taken to ensure the accuracy of this publication, the information is intended for general guidance only.

Copyright May 2009. BDO Stoy Hayward LLP. All rights reserved.

ISSN 0263-9076